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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BAUGH, APRIL L	
ART UNIT	**PAPER NUMBER**
2141	7

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/578,218	BANGA, GAURAV	
	Examiner	Art Unit	
	April L Baugh	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8-13* is/are pending in the application.

4a) Of the above claim(s) *7* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 8-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Claims 1, 3, and 4 were amended, claim 7 canceled, and claims 8-13 added, therefore claims 1-6 and 8-13 are now pending.

Response to Arguments

1. Applicant's arguments filed August 8, 2003 have been fully considered but they are not persuasive. Applicant argues that Amundson et al. does not teach determining a protocol mismatch based on the number of 2nd messages received by the first device. The examiner's position is that Amundson et al. does teach determining a protocol mismatch based on the number of 2nd messages received by the first device (column 1, lines 30-36 and 44-52).

Amundson et al. states, 'The receiving modem...interprets this as a request to establish a connection. If the connection is established, an acknowledgement message sent to the transmitting modem thereby establishes the connection. Such a physical link is capable of being established because both modems use the same physical connect protocol.' Therefore it is the examiners position that for the 1st device to receive an acknowledgement message, a connection must be established, and a connection is only established if the devices use the same protocol. Therefore if there is a protocol mismatch, a connection would never be made and therefore a message would not be sent to the 1st device thus alerting the 1st device to a protocol mismatch.

2. Applicant's arguments with respect to claims 3, 5, 13, and 11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-2, 6, 8-9, and 12 rejected under 35 U.S.C. 102(b) as being unpatentable by US Patent No. 4,680,781 to Amundson et al.

Regarding claim 1, Amundson et al. teaches a method, including steps of at a first device coupled to a communication link, generating at least on first message to a set of second devices coupled to said communication link (column 1, lines 22-24 and column 1, lines 31-34), said one first message being disposed so that its receipt at said set of second devices causes said set of second devices to generate one or more second messages in response thereto (column 1, lines 33-36); monitoring a number of said second messages received at said first device (column 2, lines 50-51); determining whether or not a protocol mismatch exists between said first device and any of said set of second devices, in response to said number of said second messages (column 1, lines 30-36 and 44-52 and column 2, lines 45-51).

Regarding claim 8, Amundson et al. teaches a device, comprising a communication link to a set of second devices; a processor that executes instructions; and memory storing the instruction including the steps of (a) generating at least on first message to a set of second devices coupled to said communication link (column 1, lines 22-24 and column 1, lines 31-34), said one first message being disposed so that its receipt at said set of second devices causes said set of second devices to generate one or more second messages in response thereto (column 1,

lines 33-36); (b) monitoring a number of said second messages received at said first device (column 2, lines 50-51); and (c) determining whether or not a protocol mismatch exists between said first device and any of said set of second devices, in response to said number of said second messages (column 1, lines 30-36 and 44-52 and column 2, lines 45-51).

Regarding claim 2 and 9, Amundson et al. teaches a method as in claim 1 and 8, including steps of at said first device, adjusting protocol parameters to match all of said second devices (column 6, lines 7-11).

Regarding claim 6 and 12, Amundson et al. teaches a method as in claim 1 and 8, wherein said protocol mismatch relates to configuration of said communication link as half-duplex or full-duplex (column 2, lines 49-51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 3 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,680,781 to Amundson et al. in view of Elliott et al.

Regarding claim 3, Amundson et al. teaches a method, including steps of at a first device coupled to a communication link, generating at least one first message to a set of second devices coupled to said communication link (column 1, lines 22-24 and column 1, lines 31-34), said one

first message being disposed so that its receipt at said set of second devices causes said set of second devices to generate one or more second messages in response thereto (column 1, lines 33-36); monitoring receipt of said second messages at said first device (column 2, lines 50-51); at said first device, generating at least one third message to said set of second devices (column 1, lines 31-35).

Amundson et al. does not teach of interfering with communication. Elliott et al. teaches said one third message being generated in an attempt to interfere with communication on said communication link when said communication link is configured as half-duplex; and determining whether or not a protocol mismatch exists between said first device and any of said set of second devices in response to whether or not said attempt to interfere succeeds (column 4, lines 58-67). Therefore it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the data telecommunications system and method with universal link establishment of Amundson et al. by interfering with communication because this forces the communication link to be configured as full-duplex.

Regarding claim 13, Amundson et al. teaches a device, comprising: a communication link to a set of second devices; a processor that executes instructions; and a memory storing the instructions including steps of (a) generating at least one first message to a set of second devices coupled to said communication link (column 1, lines 22-24 and column 1, lines 31-34), said one first message being disposed so that its receipt at said set of second devices causes said set of second devices to generate one or more second messages in response thereto (column 1, lines 33-36); (b) monitoring receipt of said second messages at said first device (column 2, lines 50-51);

at said first device, (c) generating at least one third message to said set of second devices (column 1, lines 31-35).

Amundson et al. does not teach of interfering with communication. Elliott et al. teaches said one third message being generated in an attempt to interfere with communication on said communication link when said communication link is configured as half-duplex; and (d) determining whether or not a protocol mismatch exists between said first device and any of said set of second devices in response to whether or not said attempt to interfere succeeds (column 4, lines 58-67). Therefore it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the data telecommunications system and method with universal link establishment of Amundson et al. by interfering with communication because this forces the communication link to be configured as full-duplex.

5. Claim 4 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,680,781 to Amundson et al. in view of Slykhouse et al.

Regarding claim 4 and 10, Amundson et al. teaches a method as in claim 1 and 8(column 1, lines 22-24 and column 1, lines 31-34).

Amundson et al. does not teach of the device including a switch. Slykhouse et al. teaches wherein at least one of said first device and said set of second devices includes an end-host or a switch (column 1, lines 65-67). Therefore it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the data telecommunications system and method with universal link establishment of Amundson et al. by having a switch included in the device because it allows the device to accept connections from multiple devices with different protocols.

6. Claim 5 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,680,781 to Amundson et al. in view of Hwong et al.

Regarding claim 5 and 11, Amundson et al. teaches a method as in claim 1 and 8 (column 1, lines 22-24 and column 1, lines 31-34).

Amundson et al. does not teach of the Ethernet. Hwong et al. teaches wherein said communication link includes an Ethernet (column 2, lines 43-44). Therefore it would have been obvious to one of ordinary skill in the art at the time that the invention was made to further modify the data telecommunications system and method with universal link establishment of Amundson et al. by having the communication link include an Ethernet because the Ethernet is used in local area networks to connect devices.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

ALB

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER